

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1147.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3118	40:258d.	Feb. 26, 1931, ch. 307, § 4, 46 Stat. 1422.

The words “State, territory, or possession of the United States” are substituted for “State or Territory” for consistency in the revised title and with other titles of the United States Code.

SUBCHAPTER III—BONDS

§ 3131. Bonds of contractors of public buildings or works

(a) DEFINITION.—In this subchapter, the term “contractor” means a person awarded a contract described in subsection (b).

(b) TYPE OF BONDS REQUIRED.—Before any contract of more than \$100,000 is awarded for the construction, alteration, or repair of any public building or public work of the Federal Government, a person must furnish to the Government the following bonds, which become binding when the contract is awarded:

(1) PERFORMANCE BOND.—A performance bond with a surety satisfactory to the officer awarding the contract, and in an amount the officer considers adequate, for the protection of the Government.

(2) PAYMENT BOND.—A payment bond with a surety satisfactory to the officer for the protection of all persons supplying labor and material in carrying out the work provided for in the contract for the use of each person. The amount of the payment bond shall equal the total amount payable by the terms of the contract unless the officer awarding the contract determines, in a writing supported by specific findings, that a payment bond in that amount is impractical, in which case the contracting officer shall set the amount of the payment bond. The amount of the payment bond shall not be less than the amount of the performance bond.

(c) COVERAGE FOR TAXES IN PERFORMANCE BOND.—

(1) IN GENERAL.—Every performance bond required under this section specifically shall provide coverage for taxes the Government imposes which are collected, deducted, or withheld from wages the contractor pays in carrying out the contract with respect to which the bond is furnished.

(2) NOTICE.—The Government shall give the surety on the bond written notice, with respect to any unpaid taxes attributable to any period, within 90 days after the date when the contractor files a return for the period, except that notice must be given no later than 180 days from the date when a return for the period was required to be filed under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(3) CIVIL ACTION.—The Government may not bring a civil action on the bond for the taxes—

(A) unless notice is given as provided in this subsection; and

(B) more than one year after the day on which notice is given.

(d) WAIVER OF BONDS FOR CONTRACTS PERFORMED IN FOREIGN COUNTRIES.—A contracting officer may waive the requirement of a performance bond and payment bond for work under a contract that is to be performed in a foreign country if the officer finds that it is impracticable for the contractor to furnish the bonds.

(e) AUTHORITY TO REQUIRE ADDITIONAL BONDS.—This section does not limit the authority of a contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases, specified in subsection (b).

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1147; Pub. L. 109-284, § 6(8), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3131(a)	40:270a(a) (words before cl. (1) related to definition).	Aug. 24, 1935, ch. 642, § 1(a)-(c), 49 Stat. 793; Pub. L. 95-585, Nov. 2, 1978, 92 Stat. 2484; Pub. L. 103-355, title IV, § 4104(b)(1)(B), Oct. 13, 1994, 108 Stat. 3342; Pub. L. 106-49, § 2(a), Aug. 17, 1999, 113 Stat. 231.
	40:270d.	Aug. 24, 1935, ch. 642, § 4, 49 Stat. 794.
3131(b)	40:270a(a) (words before cl. (1) related to furnishing bond), (1), (2).	
	40:270d-1.	Aug. 24, 1935, ch. 642, § 5, as added Pub. L. 103-355, title IV, § 4104(b)(1)(A), Oct. 13, 1994, 108 Stat. 3341.
3131(c)	40:270a(d).	Aug. 24, 1935, ch. 642, § 1(d), as added Pub. L. 89-719, title I, § 105(b), Nov. 2, 1966, 80 Stat. 1139.
3131(d)	40:270a(b).	
3131(e)	40:270a(c).	

In subsection (a), the text of 40:270d is omitted because of 1:1.

In subsections (b) and (c), the words “or sureties” are omitted because of 1:1.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c)(2), is classified to Title 26, Internal Revenue Code.

Editorial Notes

AMENDMENTS

2006—Subsec. (e). Pub. L. 109-284 substituted “To” for “to” in heading.

§ 3132. Alternatives to payment bonds provided by Federal Acquisition Regulation

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in section 3131(a) of this title that are more than \$25,000 and not more than \$100,000.

(b) RESPONSIBILITIES OF CONTRACTING OFFICER.—The contracting officer for a contract shall—

(1) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subsection (a), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for the contract; and